

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
July 19-23, 2004

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
7-19	EX	78116593	Active Organics, Inc.	Quinn Holtzman Rogers*	2(d); 2(e)(1)	Refusal Affirmed under 2(d) as to Classes 3 and 5 only; Refusal Affirmed under 2(e)(1) as to all four classes		“ACTIVE ORGANICS” [<i>in Class 1</i> : botanical extracts for use in making cosmetics; <i>in Class 3</i> : naturally derived materials used alone or as ingredients in the preparation of cosmetics, namely, anti-aging creams and aromatherapy oils; <i>in Class 5</i> : naturally derived pharmaceutical preparations for the treatment of dry and chafing skin, for use as an end product and for manufacturing use; <i>in Class 30</i> : food flavoring additives for non-nutritional purposes]	“ACTIVE ORGANICS” [astringents for cosmetic purposes, bath gel, bath oil, bath powder, body cream, body oil, hand cream, night cream, personal deodorants, deodorants and antiperspirants, essential oils for personal use, hair gel, shower gel, non-medicated hair care preparations, hair cleaning preparations, hair rinses, hair spray, hair styling preparations, lipstick, skin moisturizer, skin lotion, soap, skin soap, skin toners, deodorant soap, liquid soaps for hands, face and body]	Shapp	No
7-19	CANC	92041105	Jomandi Productions, Inc. v. Thomas W. Jones, II <i>et al.</i>	Hairston Rogers* Drost	whether registrants own the registered mark	Petition to Cancel Granted		“JOMANDI” [production of theatrical shows, audio recordings, video recordings, television shows, and movies]			No
7-20	EX	78095772	XOX Inc.	Seeherman Chapman* Bottorff	2(d)	Refusal Affirmed		“XOX” [14K and sterling silver jewelry; bracelets, rings, watches, pendants, broaches]	“XOXO” [jewelry, watches, clocks]	Benmaman	No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

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7-20	EX	76371942	Queen Elizabeth II Health Sciences Centre	Seeherman* Hanak Holtzman	2(d)	Refusal Affirmed		"RISE & SHINE" (and design) [cooperative advertising and marketing program in the field of health care]	"RISE 'N SHINE NORTHEAST CARE CENTER INC." (and design) [providing in-patient and out-patient medical care for the mentally retarded and developmentally disabled]	Altree	No
7-20	EX	76351038	Sports Source, Inc.	Simms (D, as to reversal in Classes 18 and 21) Seeherman* Quinn	2(d)	Refusal Affirmed as to goods in Class 20; Refusal Reversed as to goods in Classes 18 and 21		"SSI SPORTS" [<i>in Class 18</i> : backpacks, day packs, fanny packs, luggage, suitcases, and beach umbrellas; <i>in Class 20</i> : foldable beach chairs and directors chairs; <i>in Class 21</i> : soft sided coolers, hard sided coolers, lunch boxes and lunch pails]	"SSI" [air beds]	Tolpin	No
7-20	EX	78114779	Michael Bergman	Hanak Bucher* Rogers	2(d)	Refusal Affirmed		"WASHINGTON SENATORS" [t-shirts, shirts, caps, jackets, pants, shorts, sweatshirts, sweatpants]	"SENATORS" [shirts and jackets]	Benzmiller	No
7-20	OPP (SJ)	91158374	Cesari S.r.L. v. Peju Province	Simms Hohein Hairston [Opinion "By the Board" (Lykos)]	2(d)	Opposition Sustained (Opposer's motion for summary judgment granted)	"LIANO" [wine]	"LIANA" [wine]			No

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7-20	EX	78108674	Stereotaxis, Inc.	Hanak Hohein* Chapman	Section 6 disclaimer requirement (of the word STEREO-TAXIS)	Refusal Affirmed		“STEREOTAXIS” (and design) [magnetic navigation systems comprising magnetic devices and controls for controlling the position and/or orientation of magnetic substances and devices in the body; a line of magnetic medical devices that can be magnetically navigated in the body for diagnostic and therapeutic purposes; catheters; endoscopes; magnets and electromagnets for medical applications; atherectomy devices; medical guidewires; medical imaging apparatus; apparatus for locating medical devices in the body; intercranial bolts; tissue samplers for extracting tissue samples from the body; medical electrodes and electrode catheters]		Bodson	No
7-21	EX	76347863	Mountain Top Beverage Group, Inc.	Simms Seeherman Rogers*	2(d)	Refusal Affirmed		“HG VIPER” [beer and malt liquor]	“VIPER” [beer, carbonated soft drinks and carbonated fruit juices]	Fosdick	No

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7-21	EX	76233338	Texas Instruments Inc.	Simms Hanak Drost*	whether the matter asserted for registration functions as a mark, i.e., whether the matter is inherently distinctive as a trademark	Refusal Affirmed as to both classes		an elongated rectangle in which the shorter left portion is black and the longer right portion is red [<i>in Class 9</i> : computer software used for programming digital signal processors; <i>in Class 42</i> : computer services, namely, providing search engines for obtaining data from the Internet]		Chisolm	No
7-21	OPP	91117260	The Manhattan Short Film Festival v. Paul Schulz	Simms Walters Drost*	whether opposer, rather than applicant, owns the mark applicant seeks to register	Opposition Sustained		"THE MANHATTAN 5 SHORT FILM FESTIVAL" (and design) [conducting entertainment exhibitions in the nature of motion picture film festivals and contests]			No
7-22	OPP	91153361	Cool Gear Int'l., Inc. v. Carla Dahl	Hohein* Bottorff Holtzman	2(d)	Opposition Dismissed	"COOL GEAR" [folding chairs with seats that act as food and beverage coolers]	"UNCOMMONLY COOL GEAR FOR BABY" [plastic baby care accessories, namely, portable containers to clean and store a baby pacifier, partially transparent baby wipes for containers, and insulated and leak proof baby bottle containers]			No

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7-22	EX	76487502	Grow Co., Inc.	Walters Bottorff* Drost	whether the mark shown in applicant's drawing is a substantially exact representation of its mark as used in commerce, as shown in its specimens of use	Refusal Affirmed		"QX" [analytical services, namely, method development and validation, raw material testing, amino acid analysis, vitamin analysis, mineral testing, residue testing, dissolution and disintegration testing, accelerated stability testing/shelf life studies, trace analysis, ph moisture content, melting point, and optical rotation, microbiological testing, qualitative and quantitative analysis of fats and oils, hydrocarbon, solvent, and wax analysis, and advising on usage of instrumentations, namely, fourier transform infrared, atomic absorption, UV/vis, gas chromatography, flame ionization, high performance liquid chromatography and thin layer chromatography]		Cordova	No
7-23	EX	76335533	Mannington Mills, Inc.	Simms Seeherman Hairston*	2(e)(1)	Refusal Affirmed		"JERUSALEM STONE" [lamine floor covering]		Cain	No

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